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Security Council

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The Security Council,

Recalling its previous resolutions concerning the situation in Somalia, especially resolutions 1918 (2010) and 1950 (2010),

Continuing to be gravely concerned by the growing threat that piracy and armed robbery at sea against vessels pose to the situation in Somalia and other States in the region, as well as to international navigation, the safety of commercial maritime routes and the safety of seafarers and other persons, and also gravely concerned by the increased level of violence employed by pirates and persons involved in armed robbery at sea off the coast of Somalia,

Strongly condemning the growing practice of hostage-taking by pirates operating off the coast of Somalia, *expressing serious concern* at the inhuman conditions hostage face in captivity, *recognizing* the adverse impact on their families, *calling for* the immediate release of all hostages, and *noting* the importance of cooperation between Member States on the issue of hostage-taking,

Emphasizing the importance of finding a comprehensive solution to the problem of piracy and armed robbery at sea off the coast of Somalia,

Stressing the need to build Somalia's potential for sustainable economic growth as a means to tackle the underlying causes of piracy, including poverty, thus contributing to a durable eradication of piracy and armed robbery at sea off the coast of Somalia and illegal activities connected therewith,

Reaffirming its respect for the sovereignty, territorial integrity, political independence and unity of Somalia, including Somalia's rights with respect to offshore natural resources, including fisheries, in accordance with international law, *recalling* the importance of preventing, in accordance with international law, illegal fishing and illegal dumping, including of toxic substances, and *stressing* the need to investigate allegations of such illegal fishing and dumping,

Being concerned at the same time that allegations of illegal fishing and dumping of toxic waste in Somali waters have been used by pirates in an attempt to justify their criminal activities,

Reaffirming that international law, as reflected in the United Nations Convention on the Law of the Sea of 10 December 1982 (Convention), in particular

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its articles 100, 101 and 105, sets out the legal framework applicable to combating piracy and armed robbery at sea, as well as other ocean activities,

Further reaffirming that the provisions of this resolution apply only with respect to the situation in Somalia and do not affect the rights and obligations or responsibilities of Member States under international law;

Reiterating its call upon States and regional organizations that have the capacity to do so, to take part in the fight against piracy and armed robbery at sea off the coast of Somalia, in particular, consistent with resolution 1950 (2010) and applicable international law, including human rights law, by deploying naval vessels, arms and military aircraft and through seizures and disposition of boats, vessels, arms and other related equipment used in the commission of piracy and armed robbery at sea off the coast of Somalia, or for which there are reasonable grounds for suspecting such use,

Underlining the importance of enhancing ongoing work to address the problems caused by the limited capacity of the judicial system of Somalia and other States in the region to effectively prosecute suspected pirates,

Noting with appreciation the assistance being provided by the United Nations, including its Office on Drugs and Crime (UNODC), and other international organizations and donors, in coordination with the Contact Group on Piracy off the Coast of Somalia (CGPCS), to enhance the capacity of the judicial and the corrections systems in Somalia, Kenya, Seychelles and other States in the region to prosecute suspected, and imprison convicted, pirates consistent with applicable international human rights law,

Commending those States that have amended their domestic law in order to criminalize piracy and facilitate the prosecution of suspected pirates in their national courts, consistent with applicable international law, including human rights law, and stressing the need for States to continue their efforts in this regard,

Noting with concern at the same time that the domestic law of a number of States lacks provisions criminalizing piracy and/or procedural provisions for effective criminal prosecution of suspected pirates,

Further expressing concern over a large number of persons suspected of piracy having to be released without facing justice, *reaffirming* that the failure to prosecute persons responsible for acts of piracy and armed robbery at sea off the coast of Somalia undermines anti-piracy efforts of the international community and *being determined* to create conditions to ensure that pirates are held accountable,

Recognizing the urgent need to undertake decisive further steps to boost anti-piracy efforts,

Expressing its gratitude for the work done by the Special Adviser to the Secretary-General on Legal Issues Related to Piracy off the Coast of Somalia Mr. Jack Lang in order to explore new solutions to counter more effectively piracy and armed robbery at sea off the coast of Somalia, including by more effective prosecution of suspected, and imprisonment of convicted pirates, and *noting with appreciation* the conclusions and proposals set forth in his report to the Security Council contained in the annex to document S/2011/30,

Determining that the incidents of piracy and armed robbery at sea off the coast of Somalia exacerbate the situation in Somalia, which continues to constitute a threat to international peace and security in the region,

1. *Welcomes* the report of the Special Adviser to the Secretary-General on Legal Issues Related to Piracy off the coast of Somalia;

2. *Recognizes* that the ongoing instability in Somalia is one of the underlying causes of the problem of piracy and contributes to the problem of piracy and armed robbery at sea off the coast of Somalia, and *stresses* the need for a comprehensive response to tackle piracy and its underlying causes by the international community;

3. *Calls upon* States to cooperate, as appropriate, on the issue of hostage-taking;

4. *Requests* States, UNODC, the United Nations Development Programme, the United Nations Political Office for Somalia (UNPOS) and regional organizations to assist the TFG and regional authorities in Somalia in establishing a system of governance, rule of law and police control in lawless areas where land-based activities related to piracy are taking place and also requests the TFG and regional authorities in Somalia to increase their own efforts in this regard;

5. *Requests* States and regional organizations to support sustainable economic growth in Somalia thus contributing to a durable eradication of piracy and armed robbery at sea off the coast of Somalia, as well as other illegal activities connected therewith, in particular in priority areas recommended by the Istanbul conference on piracy in Somalia;

6. *Invites* States and regional organizations to continue their support and assistance to Somalia in its efforts to develop national fisheries and port activities in line with the Regional Plan of Action, and in this regard *emphasizes* the importance of the earliest possible delimitation of Somalia's maritime spaces in accordance with the Convention;

7. *Recalls* preambular paragraphs 6 and 7 above and operative paragraph 2 of resolution 1950 (2010), and *requests* the Secretary-General to report within six months on the protection of Somali natural resources and waters, and on alleged illegal fishing and illegal dumping, including of toxic substances, off the coast of Somalia, taking into account the studies on this matter previously conducted by the United Nations Environmental Programme and other competent agencies and organizations, and expresses its readiness to keep the matter under review;

8. *Urges* States individually or within the framework of competent international organizations to positively consider investigating allegations of illegal fishing and illegal dumping, including of toxic substances, with a view to prosecuting such offences when committed by persons under their jurisdiction;

9. *Calls upon* States and regional organizations cooperating with the TFG in the fight against piracy off the coast of Somalia to further increase their coordination to effectively deter, prevent and respond to pirate attacks, including through the CGPCS;

10. *Encourages* States and regional organisations cooperating with the TFG to assist Somalia in strengthening its coastguard capacity, in particular by

supporting the development of land-based coastal monitoring and increasing their cooperation with the Somali regional authorities in this regard, as appropriate, after having any necessary approval from the Council's Committee pursuant to resolutions 751 (1992) and 1907 (2009);

11. *Calls on* States, regional organizations, the United Nations, IMO and other appropriate partners to provide all necessary technical and financial support to the implementation of the Djibouti Code of Conduct, the Regional Plan of Action for Maritime Security in Eastern and Southern Africa and the Indian Ocean agreed by Ministers in Mauritius in October 2010, and the CGPCS regional needs assessment report, recognizing the political will expressed by regional countries in these documents to combat piracy by all means possible, including through prosecution and imprisonment;

12. *Commends* the efforts of the shipping industry, in cooperation with the CGPCS and IMO, in developing and disseminating the updated version of the Best Management Practices to Deter Piracy off the Coast of Somalia and in the Arabian Sea Area (BMP) and *emphasizes* the critical importance for the shipping industry of applying the best practices recommended in the BMP;

13. *Urges* all States, including States in the region, to criminalize piracy under their domestic law, emphasizing the importance of criminalizing incitement, facilitation, conspiracy and attempts to commit acts of piracy;

14. *Recognizes* that piracy is a crime subject to universal jurisdiction and in that regard *reiterates its call on* States to favourably consider the prosecution of suspected, and imprisonment of convicted, pirates apprehended off the coast of Somalia, consistent with applicable international human rights law;

15. *Underlines* the need to investigate and prosecute those who illicitly finance, plan, organize, or unlawfully profit from pirate attacks off the coast of Somalia, recognizing that individuals and entities who incite or intentionally facilitate an act of piracy are themselves engaging in piracy as defined under international law and expresses its intention to keep under review the possibility of applying targeted sanctions against such individuals and entities if they meet the listing criteria set out in paragraph 8 resolution 1844 (2008);

16. *Invites* States, individually or in cooperation with regional organizations, UNODC and INTERPOL, to examine their domestic legal frameworks for detention at sea of suspected pirates to ensure that their laws provide reasonable procedures, consistent with applicable international human rights law, and *also invites* States to examine domestic procedures for the preservation of evidence that may be used in criminal proceedings to ensure the admissibility of such evidence, and encourages the CGPCS to contribute to this work;

17. *Further invites* States and regional organizations, individually or in cooperation with, among others, UNODC and INTERPOL, to assist Somalia and other States of the region in strengthening their counter-piracy law enforcement capacities, including implementation of anti-money-laundering laws, the establishment of Financial Investigation Units and strengthening forensic capacities, as tools against international criminal networks involved in piracy, and *stresses* in this context the need to support the investigation and prosecution of those who illicitly finance, plan, organize, or unlawfully profit from pirate attacks off the coast of Somalia;

18. *Underlines* the importance of continuing to enhance the collection, preservation and transmission to competent authorities of evidence of acts of piracy and armed robbery at sea off the coast of Somalia, and *welcomes* further work of IMO, INTERPOL and industry groups to assist in providing guidance to seafarers on preservation of crime scenes following acts of piracy, noting the importance for the successful prosecution of acts of piracy of enabling seafarers to give evidence in criminal proceedings;

19. *Urges* States and international organizations to share evidence and information for anti-piracy law enforcement purposes with a view to ensuring effective prosecution of suspected, and imprisonment of convicted, pirates;

20. *Requests* States, UNODC and regional organizations to consider, consistent with applicable rules of international human rights law, measures aimed at facilitating the transfer of suspected pirates for trial, and convicted pirates for imprisonment, including through relevant transfer agreements or arrangements, and commends the efforts to date of the CGPCS in this regard;

21. *Welcomes* the readiness of the national and regional administrations of Somalia to cooperate with each other and with States who have prosecuted suspected pirates with a view to enabling convicted pirates to be repatriated back to Somalia under suitable prisoner transfer arrangements, consistent with applicable international law including international human rights law, *recognizes* in this regard the discussions between the Government of Seychelles and the national and regional administrations of Somalia, which resulted in an agreement in principle of a legal framework for the transfer of convicted pirates to Somalia after their prosecution and conviction in the Seychelles, and *encourages* States to continue their efforts in this regard;

22. *Urges* States, UNODC, based on support from donors, and regional organizations to consolidate international assistance to increase prison capacity in Somalia, including by constructing in the short-term additional prisons in Puntland and Somaliland, and *requests* UNODC to continue to provide training for prison staff in accordance with relevant international human rights standards and to continue to provide monitoring of compliance with such standards;

23. *Requests* the TFG, with the assistance of UNODC, to elaborate and adopt a complete set of counter-piracy laws, and in this regard, welcomes the positive steps made in Puntland, and the progress being made in Somaliland;

24. *Emphasizes* the need to ensure effective coordination of anti-piracy efforts and in that regard *requests* the Secretary-General to strengthen UNPOS as the United Nations focal point for counter-piracy, including the Kampala process;

25. *Supports* the ongoing efforts by regional States in the development of anti-piracy courts or chambers in the region, welcomes support by States and international organizations, in consultation with the CGPCS, to such efforts, and requests the Secretary-General to take appropriate measures to assist States and international organizations in such activities;

26. *Decides* to urgently consider the establishment of specialized Somali courts to try suspected pirates both in Somalia and in the region, including an extraterritorial Somali specialized anti-piracy court, as referred to in the recommendations contained in the report of the Special Adviser to the Secretary-

General on Legal Issues Related to Piracy off the Coast of Somalia Mr. Jack Lang (annex to document S/2011/30), consistent with applicable human rights law, and requests the Secretary-General to report within two months on the modalities of such prosecution mechanisms, including on the participation of international personnel and on other international support and assistance, taking into account the work of the CGPCS and in consultation with concerned regional States and *expresses* its intention to take further decisions on this matter;

27. *Urges* both State and non-State actors affected by piracy, most notably the international shipping community, to provide support for the above-mentioned judicial and detention related projects through the Trust Fund Supporting the Initiatives of States Countering Piracy off the coast of Somalia;

28. *Decides* to remain seized of the matter.